

**REMARKS**

Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Claims 3 and 4 have been amended for reasons unrelated to patentability, including at least one of: to explicitly present one or more elements implicit in the claim as originally written when viewed in light of the specification thereby not narrowing the scope of the claim, to detect infringement more easily, to enlarge the scope of infringement, to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.), to expedite the issuance of a claim of particular current licensing interest, to target the claim to a party currently interested in licensing certain embodiments, to enlarge the royalty base of the claim, to cover a particular product or person in the marketplace, to target the claim to a particular industry; and/or addressing an informality.

Claims 1-8 are now pending in this application. Claims 1, 2, and 5-8 are the independent claims.

**I. The Indefiniteness Rejection**

Claims 3 and 4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Claims 3 and 4 have been amended solely to address an informality by referring to claim 1. As for the meaning of “serendipity probability”, reference is respectfully made to the current application at page 26, line 21 through page 27, line 10, wherein the phrase “serendipity probability” is clearly defined, thereby enabling a reasonable search. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

## II. The Anticipation Rejection

Claims 1-2, and 5-8 were rejected as anticipated under 35 U.S.C. §102(e). In support of the rejection, Fayyad et al. (U.S. Patent No. 6,633,882) was cited. This rejection is respectfully traversed.

Fayyad fails to establish a prima facie case of anticipation. See MPEP 2131. To anticipate expressly, the “invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a single prior art reference, arranged as in the claim”. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001). The single reference must describe the claimed subject matter “with sufficient clarity and detail to establish that the subject matter existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention”. *Crown Operations Int’l, LTD v. Solutia Inc.*, 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002). Moreover, the prior art reference must be sufficient to enable one with ordinary skill in the art to practice the claimed invention. *In re Borst*, 345 F.2d 851, 855, 145 USPQ 554, 557 (C.C.P.A. 1965), *cert. denied*, 382 U.S. 973 (1966); *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354, 65 USPQ2d 1385, \_\_\_\_ (Fed. Cir. Jan. 6, 2003) (“A claimed invention cannot be anticipated by a prior art reference if the allegedly anticipatory disclosures cited as prior art are not enabled”).

Specifically, claims 1, 5, and 6 recite “calculating a percent of proxy values for the plurality of variables that equals a **mode** of that observation’s corresponding cluster’s proxy values”. Fayyad does not teach expressly or inherently “calculating a percent of proxy values for the plurality of variables that equals a mode of that observation’s corresponding cluster’s proxy values”. Instead, at most Fayyad allegedly recites an “accuracy parameter (TileAccuracy) is the accuracy of each tile. This is the percentage by which the number of points in a tile is allowed to deviate from the **expected value** (Tile Accuracy).” See col. 10, lines 3-6. Notably, Fayyad does

not teach any “mode”. Accordingly, it is respectfully submitted that the rejection of claims 1, 5, and 6 is unsupported by Fayyad and should be withdrawn.

Claims 2, 7, and 8 recite “estimating a **purposeful** probability that a particular possible value from the plurality of possible values for a particular variable will be **purposefully** provided...”. The phrase “purposeful probability” is defined in the current application at page 25, line 14 through page 26, line 1. Fayyad does not teach expressly or inherently “estimating a **purposeful** probability that a particular possible value from the plurality of possible values for a particular variable will be **purposefully** provided...”. Accordingly, it is respectfully submitted that the rejection of claims 2, 7, and 8 is unsupported by Fayyad and should be withdrawn.

**CONCLUSION**

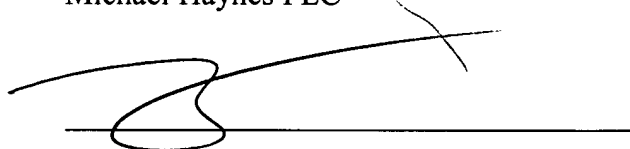
It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC

Date: 20 Jan '09

A handwritten signature in black ink, appearing to be 'Michael N. Haynes', written over a horizontal line.

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